IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY , THE SEVENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT APPEAL NO : 1958 of 2004 & WRIT PETITION No. 19111 of 2003

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 7/10/2004 in W.V.M.P.NO:1573 OF 2004 AND W.P.M.P.NO:23929 OF 2003 IN WP NO : 19111 OF 2003 on the file of the High Court.)

Between:

APSRTC rep. by its Depot Manager, Gooty Depot, Gooty, Ananthapur District.

..... APPELLANT

AND

1.APSRTC National Mazdoor Union (Regd.3108 rep. By its Secretary, Gooty Depot, P.K.Ramudu

2.APSRTC Employees Union (Regd.No:215), rep. by its Secretary, M.Ramanjaneyulu.

3.APSRTC Transport Mazdoor Sangh, rep. by its Secretary J.P.Ramulu.

.....RESPONDENTs

Counsel for the Appellant: MR.P.Vinayakaswamy

Counsel for the Respondents.: MR.B.G.RAVINDRA REDDY

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WRIT PETITION NO : 19111 of 2003

Between:

1.APSRTC National Mazdoor Union (Regd.3108 rep. By its Secretary, Gooty Depot, P.K.Ramudu, Conductor resident of Gooty, Ananthapur District.

2.APSRTC Employees Union (Regd.No:215), rep. by its Secretary, M.Ramanjaneyulu.Conductor, resident of Gooty, Ananthapur District.

3.APSRTC Transport Mazdoor Sangh, rep. by its Secretary J.P.Ramulu, Driver, resident of Gooty, Ananthapur District.

..... PETITIONERs

AND

APSRTC rep. by its Depot Manager, Gooty Depot, Gooty, Ananthapur District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that for the reasons stated in the accompanying Affidavit the High Court will be pleased to pass an order or issue a Writ, particularly one in the nature of writ of Mandamus, declaring that the action of the respondent in enforcing the order C1/781(2)/02-GTY dated 28.8.2003 during the pendency of Industrial Disputem proceedings as illegal and consequently to direct the respondent not to recover any amount until adjudication process is over.

Counsel for the Petitioners: MR.B.G.Ravindra Reddy

Counsel for the Respondent.: Mr.P.Vinayakaswamy.

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The Court made the following :

COMMON ORDER: (Per the Honourable Smt. Justice T.Meenakumari)

This writ appeal is filed by the respondent in the writ petition aggrieved by the order in W.V.M.P.No:1573 of 2004 and W.P.M.P.No:23929 of 2003 in W.P.No:19111 of 2003, under which the learned single Judge while disposing of the above M.Ps., passed the following order:

> *"The dispute itself is with regard to the recovery of the amount by way of punishment under the impugned order and the same is subject matter of conciliation proceedings. When the conciliation proceedings are admitted, I am of the view that whether the recovery of the said amount during the pendency of the conciliation proceedings amounts to altering the service conditions is a matter to be decided in the main writ petition. Therefore, interim stay is made absolute and the W.V.M.P. is dismissed. However, the conciliation officer may proceed with the finalisation of the conciliation proceedings.*
>
> *Post the W.P. for final hearing on 1.11.2004,"*

Which is impugned in the present appeal.

Both the learned counsel have agreed to dispose of the writ appeal and well as the above writ petition.

Heard the learned counsel on either side.

The writ petition is filed questioning the action of the respondent in resorting to recovery under the order dated 28.8.2003 during the pendency of the Industrial dispute, as illegal.

It is contended by the learned counsel for the writ petitioners that against the said order, the petitioners have raised an industrial dispute and the same is pending before the Assistant Commissioner of Labour, Ananthapur and therefore, enforcing the order during the pendency of conciliation proceedings at Ananthapur is contrary to the provisions of section 33 of the Industrial Disputes Act.

There is no dispute as to the pendency of the conciliation proceedings before the Conciliation Officer, Ananthapur.

In view of the fact that the recovery proceedings, is a subject matter of the conciliation proceedings, which are pending before the Conciliation Officer, Ananthpur, the findings if any, by this Court as to the action of the respondent-Corporation may cause prejudice to either of the parties.

Therefore, in the facts and circumstances of the case, without expressing any opinion on the merits of the case, We deem it just and proper to direct the Conciliation Officer, Ananthpur to expedite the enquiry and dispose of the same in accordance with law, preferably within a period of three (3) months from the date of receipt of copy of this order.

Subject to the above direction, the writ appeal as well as the writ petition, are disposed of. However, it is made clear that the recovery in question shall await the result of the conciliation proceedings pending before the Conciliation Officer, Ananthpur.

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Justice T.Meenakumari

7th December, 2004

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justice S.Ananda Reddy

Gurc.

1. Secretary, Gooty Depot, P.K.Ramudu, APSRTC National Mazdoor Union (Regd.3108)

2. Secretary, M.Ramanjaneyulu. APSRTC Employees Union (Regd.No:215),

3. Secretary, J.P.Ramulu. APSRTC Transport Mazdoor Sangh

4. The Assistant Commissioner of Labour, Ananthapur.

5. Two C.D. copies.

HONOURABLE SMT. JUSTICE T.MEENAKUMARI

&

HONOURABLE SRI JUSTICE S.ANANDA REDDY

W.A.No:1958 of 2004

&

W.P.NO:19111 OF 2003

(Common order pronounced by Smt.Justice T.Meenakumari)

7th December, 2004